

under the law has not been followed in this case therefore custody of child has been given to Child Welfare Committee by the order of C.W.C. Child has been kept at Lanja children home. Submission placed before the Commission reveal that child was handed over by her natural mother to the adoptive parents and not by the hospital's authorities. The District Women and Child Development Officer has sought guidance on this issue by the Commission.

3. Adoption as defined under the law :-

Adoption is creation of parent child relationship by judicial order between two parties who usually are unrelation. The relation of parent and child created by law between persons who are not in fact parent and child. This relationship is brought about only after a determination that the child is an orphan or has been abandon or that the parent's parental rights have been terminated by Court's order. Private adoption defined as an adoption that occurs independently between biological mother and adoptive parents without involvement of an agency. The Hindu Adoption and guardianship Act is clear. Adoption should be acted only after following due procedure of law. Power to issue order, for adoption is with the Session court. CARA Guidelines are also clear in this regard. However in this matter it is not followed, therefore without the judicial order, an agreement between adoptive parents and natural mother is illegal, thus it attracts the provisions of penal code. In

view of contents as defined in the foregoing paras, the Commission's recommendation is as follows :

4. To initiate proceeding of prosecution against concern persons under provision of Indian Penal Code and violation of C.A.R.A. Guidelines.

By order and seal of the Commission.



(A.N.Tripathi)

I.F.S.

Secretary

Maharashtra state commission for
protection of child rights

Before the Maharashtra State Commission for
Protection of Child Rights.

Enquiry, under section 13(1) & 14 of the child
right protection act, 2005

Case No.97 / 2013-14

Mr. Sachin Ankush Masurkar & Others... Applicants

V/s

<u>Mr. Harsh Devgadkar</u>	<u>.... Respondent No. 1</u>
<u>Mrs. Harshda Devgadkar</u>	<u>.... Respondent No. 2</u>
<u>Adv. Umesh Sawant (Notary)</u>	<u>.... Respondent No. 3</u>
<u>Shri Ganesh Naik</u>	<u>.... Respondent No. 4</u>
<u>Dr. Shikalgar</u>	<u>.... Respondent No. 5</u>

Background

This Commission received complaint filed by Shree Sachin Ankush Masurkar and others alleging that Respondent No.1 and 2 with the help of Respondent No. 3, 4 and 5 have adopted minor girl child belonging from unwed mother without following due procedure of law as required in the matter of adoption under the Hindu adoption and Guardianship Act 1956 and CARA Guidelines. Commission issued notices to adoptive parents, Members and Chairman of Child Welfare Committee, Women and Child Development officer.

2. Women and Child Development officer, Singhudurg in his submission has admitted that procedure as prescribed